

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

UNITED STATES OF AMERICA	:	
	:	
v.	:	C.A. No. 14-0078-WES
	:	
STATE OF RHODE ISLAND,	:	
DEPARTMENT OF CORRECTIONS	:	

REPORT AND RECOMMENDATION

Lincoln D. Almond, United States Magistrate Judge

Pending before me for a report and recommendation (28 U.S.C. § 636(b)(1)(B)) is the parties' Joint Motion for Final Approval of Settlement Agreement. (ECF Doc. No. 85). Pursuant to the Court's Provisional Order of Entry dated October 20, 2017, a Fairness Hearing on the Settlement Agreement was held on February 7, 2018. (ECF Doc. No. 82). A total of fifty-five Objections were received by the parties and communicated to the Court. However, only six (one anonymous) raise any substantive objection to the Final Settlement Agreement. The remainder all reasonable appear to be potential claimants expressing an interest in relief under the Final Settlement Agreement who have misunderstood the purpose of the Objection Form and process. At the hearing, two individuals spoke in favor of the Proposed Settlement. Only one objector (through counsel) appeared and addressed the Court.

Discussion

The pending Motion for Final Approval requires the Court to determine whether the proposed settlement agreement is lawful, fair, reasonable, adequate and consistent with the public interest. See Hutchinson v. Patrick, 636 F.3d 1, 10 (1st Cir. 2011); Voss v. Rolland, 592 F.3d 242, 251 (1st Cir. 2010). Here, the parties have given reasonable notice to potential

objectors and, as noted, several Objections have been presented to the Court. After fully and thoroughly reviewing the Final Settlement Agreement and the Objections, I conclude that the terms of the Settlement Agreement (ECF Doc. No. 80-1) are lawful, fair, reasonable, adequate and serve the public interest. Accordingly, I recommend that Chief Judge William E. Smith enter the parties' proposed Order GRANTING the Joint Motion for Final Approval of the Settlement Agreement (see ECF Doc. 85-2) after reviewing this recommendation, the Settlement Agreement, the relevant docket entries and the transcript of the Fairness Hearing.

As the Court knows, this has been a hotly-contested lawsuit with experienced and competent attorneys on both sides of the case. While it is undisputed that there was a statistically significant disparity in pass rates between African American/Hispanic and white applicants for the pre-hire examinations in issue, the Court has not made any finding that such examinations violated Title VII. The State of Rhode Island maintains its position that there is no Title VII liability since the examinations are job-related and consistent with business necessity. The State of Rhode Island also maintains its position that the United States unduly delayed its prosecution of this lawsuit and that, even if Title VII liability were found, the Court should apply the equitable doctrine of laches to limit potential monetary damages. As the Court knows from the Motion for Provisional Entry, the Proposed Settlement is multi-faceted. It includes injunctive relief aimed at remedying any legal deficiencies in the hiring process. It includes monetary relief fund directed generally to unsuccessful applicants. Finally, it includes a preferential hiring process which includes noncompetitive retroactive seniority. Although the Proposed Settlement falls short of providing complete, make-whole relief to each potential claimant, it is a reasonable arm's-length compromise reached by government actors seeking to further the public interest. See Conservation Law Found. v. Franklin, 989 F.2d 54, 58 (1st Cir. 1993) (holding that where a

governmental agency has committed itself to a consent decree, the Court “must exercise some deference” to the agency’s determination that settlement is appropriate). As to the particular Objections raised to the Settlement, I recommend that they each be overruled for the reasons I articulated on the record during the Fairness Hearing as well as for the reasons articulated by the parties at the hearing and in their filings.

Conclusion

For the foregoing reasons, I recommend that Chief Judge William E. Smith overrule all of the objections and GRANT the parties’ Joint Motion for Final Approval of Settlement Agreement (ECF Doc. No. 85) by ENTERING the proposed ORDER (ECF Doc. No. 85-2) presented by the parties.

Any objection to this Report and Recommendation must be specific and must be filed with the Clerk of the Court within fourteen days of its receipt. See Fed. R. Civ. P. 72(b); LR Cv 72. Failure to file specific objections in a timely manner constitutes waiver of the right to review by the District Court and the right to appeal the District Court’s decision. See United States v. Valencia-Copete, 792 F.2d 4, 6 (1st Cir. 1986); Park Motor Mart, Inc. v. Ford Motor Co., 616 F.2d 603, 605 (1st Cir. 1980).

/s/ Lincoln D. Almond
LINCOLN D. ALMOND
United States Magistrate Judge
February 8, 2018